

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Introduced

Senate Bill 567

BY SENATORS BOSO, ASHLEY, BLAIR, GAUNCH,
KIRKENDOLL, MAYNARD, MILLER, MULLINS, ROMANO,
WILLIAMS, STOLLINGS, PLYMALE AND FERNS

[Introduced February 10, 2016;

Referred to the Committee on the Judiciary.]

1 A BILL to amend and reenact §61-3-29 of the Code of West Virginia, 1931, as amended, relating
2 to prohibiting damage to property of railroads, public utilities and certain production
3 storage and distribution facilities; adding electrical storage facilities and timber operations
4 to the protected parties; prohibiting destruction, damage or removal of property resulting
5 in impairment to the normal, safe operation of those facilities; providing criminal penalties;
6 and clarifying persons convicted of section are subject to restitution.

Be it enacted by the Legislature of West Virginia:

1 That §61-3-29 of the Code of West Virginia, 1931, as amended, be amended and
2 reenacted to read as follows:

ARTICLE 3. CRIMES AGAINST PROPERTY.

**§61-3-29. Damage or destruction of railroad or public utility company property, or real or
personal property used for producing, generating, transmitting, distributing,
treating or collecting electricity, natural gas, coal, water, wastewater, stormwater,
telecommunications or cable service; penalties; restitution.**

1 (a) Any person who knowingly and willfully damages or destroys any commercial or
2 industrial real or personal property owned by a railroad company, or public utility company, or any
3 real or personal property used for producing, generating, transmitting, distributing, treating storing
4 or collecting electricity, natural gas, oil, coal, timber, timber processing, water, wastewater,
5 stormwater, telecommunications or cable service, is guilty of a misdemeanor and, upon conviction
6 thereof, shall be fined not more than \$2,000, or confined in jail not more than one year, or both
7 fined and confined.

8 (b) Any person who knowingly and willfully: (1) Damages or destroys any commercial or
9 industrial real or personal property owned by a railroad company, or public utility company, or any
10 real or personal property used for producing, generating, transmitting, distributing, treating, storing
11 or collecting electricity, natural gas, oil, coal, timber, timber processing, water, wastewater,
12 stormwater, telecommunications or cable service; and (2) thereby creates a substantial risk of

serious bodily injury to another or results in the interruption of service to the public is guilty of a felony and, upon conviction thereof, shall be fined not more than \$5,000, or confined in a state correctional facility not less than one nor more than three years, or both fined and imprisoned.

(c) Any person who knowingly and willfully: (1) Damages or destroys any commercial or industrial real or personal property owned by a railroad company, or public utility company, or any real or personal property used for producing, generating, transmitting, distributing, treating, storing or collecting electricity, natural gas, oil coal, timber, timber processing, water, wastewater, stormwater, telecommunications or cable service; and (2) causes serious bodily injury to another is guilty of a felony and, upon conviction thereof, shall be fined not less than \$5,000 nor more than \$50,000, or confined in a state correctional facility not less than one nor more than five years, or both fined and imprisoned.

(d) Any person who knowingly and willfully damages or destroys any commercial or industrial real or personal property owned by a railroad company, public utility company, or any real or personal property used for producing, generating, transmitting, distributing, treating, storing or collecting electricity, natural gas, oil, coal, timber, timber processing, water, wastewater, stormwater, telecommunications or cable service; and thereby hinders, impairs or disrupts, directly or indirectly the normal operation of any equipment, device, system or service put in place, in whole or in part, to protect, promote or facilitate the health or safety of any person is guilty of a felony and, upon conviction thereof, shall be fined not less than \$5,000 nor more than \$10,000.

(e) Any person convicted of subsection (a), (b), (c) or (d) of this section is subject to the provisions of article eleven-a of this chapter.

~~(d)~~ (f) Nothing in this section ~~may be construed to limit or restrict~~ limits or restricts the ability of an entity referred to in subsection (a), (b), ~~or~~ (c) or (d) of this section or a property owner or other person who has been damaged or injured as a result of a violation of this section from seeking recovery for damages arising from violation of this section.

NOTE: The purpose of this bill is to provide protection against property crimes committed against coal mines, utilities and other industrial facilities. The bill adds timber operations and electrical storage property to the protected facilities and provides criminal penalties for the removal, destruction, or damage of real or personal property that impairs the normal operation any equipment or system used for the protection of health and safety of any person.

Strike-throughs indicate language that would be stricken from a heading or the present law, and underscoring indicates new language that would be added.